



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

HOUSTON ELISEEVA
4 MILITIA DRIVE, SUITE 4
LEXINGTON, MA 02421

COPY MAILED

DEC 06 2004

OFFICE OF PETITIONS

In re Application of :
Aiping Young :
Application No. 10/821,649 : DECISION ON PETITION
Filed: April 8, 2004 :
Atty Docket No. 0018.0024.cip :

This is a decision on the "PETITION UNDER 37 CFR 1.53(e)," filed October 20, 2004. Applicant requests that the above-identified application be accorded a filing date of April 8, 2004, with page 29 of the specification as part of the original application disclosure.

Application papers in the above-identified application were deposited on April 8, 2004. However, on August 20, 2004, the Initial Patent Examination Division mailed applicant a "Notice to File Missing Parts of Nonprovisional Application." Applicant was notified that the application papers had been accorded a filing date; however, page 29 of the specification appeared to have been omitted from the application.

In response, applicant timely filed the instant petition. Applicant asserts that page 29 of the specification was not omitted, but was submitted with the specification on the filing date of April 8, 2004. In support thereof, petitioner submits *inter alia* a copy of their return postcard receipt and a copy of page 29 as originally submitted.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the Office of Initial Patent Examination (OIPE) on April 8, 2004 and the papers submitted therewith assigned application No. 10/821649; 2) it specifically identifies the items being filed, including "X Specification - Total pages 46 including 8 pages of claims and 1 abstract" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Pursuant to petitioner's duty of good faith and candor to the Office, it is accepted that the return postcard submitted is a true copy of the postcard as returned from the Office. Thus, petitioner has shown that the items denoted, including page 29 of specification, were filed on April 8, 2004.

The application papers already considered received in the Office on April 8, 2004, were reviewed along with the missing page of

specification submitted on petition. These papers together constitute the items described on the postcard receipt as "X Specification - Total pages 46 including 8 pages of claims and 1 abstract." Petitioner has shown that p. 29 of the specification was among the items present in the application on the date of deposit and should be included in the original application papers.

Accordingly, the petition is GRANTED.


Given the basis for granting the petition, the petition fee is subject to refund. Accordingly, the fee, although authorized, will not be charged to petitioner's Deposit Account.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application has, thereby, been forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of April 8, 2004, using the application papers received in the Office on that date and the missing page of specification.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.



Nancy Johnson
Attorney Adviser
Office of Petitions